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# To Protect and Serve . . . the kids.

News for the Child Abuse Investigator

## Physical Evidence in Child Abuse Cases

To Protect and Serve . . . the Kids is a publication of the Children's Law Project (CLP).

### Child abuse cases are different, but the same!

Anyone who has ever worked on a child abuse case, be it physical abuse or sexual abuse, can easily list the ways a child abuse case is different than other cases - like robbery, drugs, and murder. However, it is easy to forget that abuse cases are the same in many ways too.

What do I mean? I am talking about evidence. Too often we repeat the cliché - "it's just the kid's word against the adult's; a swearing match." Of course that is partially right since there are rarely witnesses to the abuse and often there is no clear medical evidence. But we forget about all the other potential physical evidence. Some of it may not be evidence of the abuse itself, but it may corroborate the child's story or descriptions.

For example, a young child may say that the room where the abuse happened looked like Barney (i.e., that means it was purple - for those of you who do not have young children). Upon investigating the scene it turns out that there is a black light bulb in the lamp on the nightstand. Of course a black light does not in and of itself mean anything, but coupled with the description given by the child, the child now is a much more credible witness.

Following are some examples of types of evidence you should look for in abuse cases<sup>1</sup>:

#### • Evidence of Violence

<sup>1</sup>This list of types of evidence is taken in part from U.S. Dept. of Justice's Portable Guides to Investigating Child Abuse. There are 11 guides which can be obtained free by calling 800-638-8736.

- **Minute and latent evidence** - seminal fluid, hair, blood
- **Souvenirs** - locks of hair, barrettes, panties, drawings or toys belonging to the child victim
- **Lures** - toys, computer games, kid videos, stuffed animals
- **Sexual aids or devices** - lubricants, contraceptives, vibrators, etc.
- **Drugs or alcohol** - or even cigarettes may be used as a lure or as a way to reduce inhibitions of the child and/or perpetrator (*Note: if given to the child, don't forget about a Contributing to the Delinquency of a Minor charge*)
- **Medication** - to treat a perpetrator's venereal disease
- **Child erotica or child or adult pornography** - may be used as a way to lessen the child's inhibitions
- **Cameras and film processing equipment**
- **Home computers and software, personal letters, journals, diaries, or calendars** - may keep a log of their victims or subscribe to some "interesting" groups on the Internet
- **Address books** with notations by the child's name. May also include the names of fellow pedophiles.
- **Bills, bank records, and receipts** - especially if the perpetrator bought gifts for the victim or took the victim on trips, etc.
- **Safe deposit keys or other documents** that may indicate the location of a safe-deposit box and/or storage facility
- **Phone bills and records** - to document phone calls to a victim
- **911 Tapes** - especially in physical abuse cases. The perpetrator or non-offending parent may panic when faced with the extent of the child's injuries. (*Note: Determine the existence of 911 tapes immediately so that they do not get taped over!*)
- **Work records or time sheets** - never forget about the "window of opportunity"
- **Weapons** - or restraints
- **Other items** - if the child describes something unusual.

Consider taking pictures of the rooms (or other location) that the child says the abuse occurred in. Again, this will lend credibility to the child's testimony and it can be a great visual aid for your prosecutor to use in court during the child's testimony!

When appropriate for your case you should also get photos of the child's injuries and general appearance. You should get the child's clothing which was worn at the time of the assault. (*Note: Do not assume that because the assault was not recent that this is still not good evidence. The clothing may not have been washed and even if it has, there may still be some evidence left. In one case the child had hidden the clothes she wore in the back of her closet.*)



## Don't forget search warrants!

Although in intrafamilial cases you might get permission to search from the non-offending parent who lives in the house, that consent will not extend to areas that person did not have access to (e.g., the locked box in the shed where the perpetrator stored his souvenirs and pornography, his computer, etc.).

Nothing is worse than finding a treasure trove of incriminating evidence and not being able to use it in court! Of course, valid consent by the perpetrator is the best of all worlds, but it is good to have a search warrant with you just in case.

When you draft your search warrant, it needs to be drafted as broadly as possible to allow you to seize everything you find that is relevant to the case, to the motivation of the offender, to his level of interest in children, and to the identities of other potential victims or offenders. If you have any questions about drafting the search warrant, you should consult with your Solicitor's Office.

## Medical Exams

In both physical abuse and sexual abuse cases, the child's body should be considered a crime scene. Medical evidence can be extremely powerful evidence. Of course the absence of medical evidence in a sexual abuse case is not inconsistent with abuse, but of course if evidence is there, we don't want to miss it.

There have been many cases where a medical examination was not done (or not done until months after the complaint). Any potential evidence that would have been found in an exam is likely long-gone. Of course if there was sexual abuse over a long period of time, an exam might reveal scarring, etc.

Often exams are not done in sexual abuse cases because the victim did not report any penetration. First, let me ask you to remove the following phrase (and anything similar to it) from your vocabulary for all time: "This is just a fondling case." When we use the word "just" that minimizes the significance of the abuse. Fondling can be as traumatic as any other form of abuse.

Also, you should always keep in mind that what the child originally disclosed as being limited to fondling may turn out to be much more. Children often disclose little bits of information at a time as they feel safe.

It is important to get a medical examination done for more than solely evidentiary reasons. A medical examination is necessary to diagnose and treat any conditions, such as sexually transmitted diseases.

Finally, medical examinations, especially if done by sensitive medical professionals trained in the area of child abuse, can reassure a child that he or she is not permanently damaged and thereby help with the child's emotional recovery.

## Because the law says so . . .

If you don't get the child to a doctor for an exam soon after the original complaint for any other reason, you need to do it because the law says you should. §16-3-1350 of the Victim and Witnesses Services Act provides that victims of criminal sexual conduct in any degree, criminal sexual with a minor in any degree, or child sexual abuse, who have filed an incident report with a law enforcement agency have the right to be immediately transported by law enforcement to the nearest licensed health care facility which performs sexual assault exams.

## ANNOUNCEMENT



The South Carolina Juvenile Officers Association will hold its Annual Training Conference on October 16-19, 1997 at the Beach Cove Resort in North Myrtle Beach, S.C. For more information call Sgt. Chris Ross at (803) 740-2861 or Sgt. Richard Shoe at (803) 918-1382.

## Don't forget about our Webpage!



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<http://childlaw.law.sc.edu>.

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